



TD 97/25 - Income tax: when should a Diesel Fuel Rebate paid under the Australian Government Diesel Fuel Rebate Scheme be included in the assessable income of a recipient?


 This cover sheet is provided for information only. It does not form part of *TD 97/25 - Income tax: when should a Diesel Fuel Rebate paid under the Australian Government Diesel Fuel Rebate Scheme be included in the assessable income of a recipient?*

 This Ruling has been reviewed by the ATO and does not require any updates as at 31 March 2017.

This Determination, to the extent that it is capable of being a 'public ruling' in terms of Part IVAAA of the *Taxation Administration Act 1953*, is a public ruling for the purposes of that Part. Taxation Rulings TR 92/1 and TR 97/16 together explain when a Determination is a public ruling and how it is binding on the Commissioner. Unless otherwise stated, this Determination applies to years commencing both before and after its date of issue. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of a settlement of a dispute agreed to before the date of issue of the Determination (see paragraphs 21 and 22 of Taxation Ruling TR 92/20).

Taxation Determination

Income tax: when should a Diesel Fuel Rebate paid under the Australian Government Diesel Fuel Rebate Scheme be included in the assessable income of a recipient?

 This Ruling has been reviewed by the ATO and does not require any updates as at 31 March 2017.

1. The price of all diesel fuel purchased includes an amount referable to Commonwealth taxes in the form of Customs/Excise duty. Rebate of duty, at differing rates depending upon the category, is made available through the provisions of the *Customs Act 1901* and the *Excise Act 1901*. The rebate is payable to a person who purchases diesel fuel and uses that fuel in eligible activities within eligible categories.
2. In order to claim a rebate, an eligible person must lodge an Application for Diesel Fuel Rebate (DFR) with the Australian Customs Service (ACS). The claim is based on the quantity of diesel fuel purchased for use by the applicant in eligible activities. It is the standard administrative practice of the ACS to pay the rebate into a claimant's nominated financial institution's account at the time when notice of the approval is forwarded to the claimant.
3. The rebate is assessable income in the hands of the recipient if it is paid as a consequence of the recipient's income producing activities. For example, if a taxpayer is carrying on a farming business and the diesel fuel, which gave rise to the entitlement to the rebate, is consumed in the course of farming then the rebate has the character of assessable income in the farmer's hands.
4. The rebate received by the recipient is income according to ordinary concepts and assessable under section 6-5 of the *Income Tax Assessment Act 1997*.
5. For taxpayers properly assessable under the receipts method, DFR income is derived when received. Accordingly, such taxpayers should include a DFR in their assessable income when received.
6. For taxpayers properly assessable under the earnings method, DFR income is derived at the time a recoverable debt arises. Having regard to the relevant legislative provisions under which the rebate is paid, and given the administrative procedures of the ACS, taxpayers who account for DFR income on an earnings basis derive DFR income at the earlier of:

- receipt of the amount into their nominated financial institution's account; or
- receipt of notification of approval.

Accordingly, such taxpayers should include a DFR in their assessable income at the earlier of the above.

Note: This Determination replaces Taxation Determination TD 95/16, which is now withdrawn.

Last Determination

This is the last Taxation Determination for the 1997 calendar year. The next Determination will be Taxation Determination TD 98/1.

Commissioner of Taxation

17 December 1997

FOI INDEX DETAIL: Reference No. I 1015513

Previously released as TD 94/D20 and TD 95/16

Related Determinations:

Related Rulings:

Subject Ref: bounties and subsidies; diesel; ordinary course of business

Legislative Ref: ITAA97 6-5

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